

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JDS TWO, LLC)	
)	No. 3-12-0349
v.)	
)	
RON SAPP; and THOMAS KEATING)	

ORDER

Pursuant to the order entered March 4, 2013 (Docket Entry No. 38), a telephonic status conference was scheduled on March 26, 2013. Defendant Keating was directed to provide a telephone number at which plaintiff's counsel could reach him and then, with both defendant Keating and plaintiff's counsel on the phone, plaintiff's counsel was directed to call the Court.

Plaintiff's counsel called the Court on March 26, 2013, and advised that he had mailed a letter to Mr. Keating at the address where he was served with process,¹ attempted to call him at a telephone number which is no longer in operation, and emailed him, but that he has not heard from defendant Keating and was not able to include him in the conference call. Plaintiff's counsel had attempted to arrange a conference call to address scheduling deadlines rather than requesting an in-person proceeding in Nashville to accommodate defendant Keating.

Plaintiff's counsel advised the Court that he intended to file a motion to have the requests for admission served on defendant Keating in November of 2012 admitted.² Thereafter, the plaintiff intends to move for summary judgment.

¹ Defendant Keating was served at 824 Euclid Ave., Suite 102, Lexington, Kentucky 40502. See Docket Entry No. 4. The copy of the March 4, 2013, order sent by regular, first class mail to that address was returned to the Court with the notation "Vacant; moved appx 5 yrs ago!" See Docket Entry No. 43. Although the address is not clear, the same notation was on the returned certified mail, presumably sent to the Euclid Avenue address. See Docket Entry No. 44. It appears unlikely that defendant Keating moved from that address approximately five years ago and yet he was served on April 9, 2012, at the same address.

² While the plaintiff may not need to file a motion to have the admissions admitted pursuant to Rule 36(a)(3) of the Federal Rules of Civil Procedure, the plaintiff will be given an opportunity to file a response to the motion.

As a result, the deadlines provided in the orders entered September 4, 2012 (Docket Entry Nos. 28 and 29), will be extended as necessary and, in any event, the deadline for filing dispositive motions is extended and an extended deadline will be set by further order.

The Clerk is directed to mail a copy of this order to defendant Keating at the address listed on the docket by regular, first class mail and by certified mail.³

It is so ORDERED.


JULIET GRIFFIN
United States Magistrate Judge

³ It appears to be an exercise in futility to mail any further orders to the Euclid Avenue address. See n.1 supra. The Romany Road address is the address listed by defendant Keating in his answer. See Docket Entry No. 20.